

ORDINANCE NO. O2M23-4811

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALHAMBRA, CALIFORNIA, ENACTED PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTIONS 36934 AND 36937 AND SECTION 48 OF THE ALHAMBRA CHARTER ESTABLISHING A TEMPORARY MORATORIUM ON CERTAIN “NO FAULT” RESIDENTIAL EVICTIONS DUE TO A PROPERTY OWNER’S INTENT TO SUBSTANTIALLY REMODEL THE TENANT’S UNIT IN THE CITY OF ALHAMBRA

WHEREAS, effective January 1, 2020, the Tenant Protection Act of 2019, Assembly Bill 1482 (“AB 1482”) added Sections 1946.2, 1947.12, and 1947.13 to the California Civil Code; and

WHEREAS, subject to certain exceptions, AB 1482: (1) limits rent increases over the course of any 12-month period to 5% plus the “percentage change in the cost of living” (as defined), or 10%, whichever is lower (the “Rent Stabilization Provisions”); and (2) prohibits an “owner” (as defined) of “residential real property” (as defined) from terminating a tenancy without “just cause” (as defined) (the “Eviction Control Provisions”); and

WHEREAS, AB 1482’s Rent Stabilization Provisions and Eviction Control Provisions are intended to “help families afford to keep a roof over their heads, and... provide California with important new tools to combat our state’s broader housing and affordability crisis;” and

WHEREAS, AB 1482’s Rent Stabilization Provisions do not apply to “a new tenancy in which no tenant from the prior tenancy remains in lawful possession of the residential real property” (Civ. Code § 1947.12(b)); and

WHEREAS, AB 1482’s Eviction Control Provisions expressly permit a landlord to evict a tenant in order to “substantially remodel” the rental unit (Civ. Code § 1946.2(b)(2)(D)(i)) (hereafter “Substantial Remodel Evictions”); and

WHEREAS, AB 1482’s Eviction Control Provisions define “substantially remodel” to mean:

“the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency, or the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, state, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the residential real property for at least 30 days”

(Civ. Code § 1946.2(b)(2)(D)(ii)); and

WHEREAS, AB 1482, therefore, permits a landlord to evict a tenant to “substantially remodel” the rental unit and then raise rents above AB 1482’s rent caps when a new tenancy begins; and

WHEREAS, AB 1482’s Eviction Control Provisions expressly authorize local agencies (like the City of Alhambra) to adopt ordinances that are “more protective” than AB 1482’s Eviction Control Provisions, in which case, the “more protective” local ordinance will apply to non-exempt residential real property (Civ. Code § 1946.2(g)(1)(B)); and

WHEREAS, like many cities in Los Angeles County, the City of Alhambra is experiencing housing affordability issues and homelessness that would be exacerbated by the displacement of renters; and

WHEREAS, after the adoption of AB 1482 in October of 2019, the Los Angeles County region saw an increase in the amount of evictions purporting to qualify as Substantial Remodel Evictions; and

WHEREAS, in Alhambra specifically, some tenants of residential real property have recently reported that their landlords are threatening to evict them for the alleged purpose of substantially remodeling their units; however, with few exceptions, the City has not received applications for permits (e.g., building permits, grading permits, and the like) for remodeling work in those units; and

WHEREAS, the City is concerned that, without “more protective” local eviction control provisions, some landlords will exploit the Substantial Remodel Eviction exception to evict tenants and raise rent in a manner that is not consistent with AB 1482; and

WHEREAS, since March of 2020, the United States, the State of California, the County of Los Angeles, and the City of Alhambra have all been in an ongoing state of emergency due to the COVID-19 pandemic that has resulted in severe financial hardship for many of Alhambra’s residents; and

WHEREAS, this City is concerned that displacing tenants from habitable residences during the COVID-19 emergency and/or as they recover from the COVID-19 emergency will result in some tenants becoming unsheltered because they cannot find and/or afford replacement housing; and

WHEREAS, pursuant to Government Code Sections 36934 and 36937, and Section 48 of the Alhambra Charter, the City may adopt an urgency ordinance for the immediate preservation of the public peace, health, or safety; and

WHEREAS, as set forth in more detail in the declaration of the facts constituting the urgency in Section 3 below, the threatened displacement of renters at unprecedented levels poses numerous threats to the public peace, health, or safety; and

WHEREAS, a temporary moratorium on no-fault, “substantial remodel” evictions while the City Council considers permanent local protections will prevent further homelessness and displacement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ALHAMBRA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals

The City Council finds the foregoing recitals and their findings to be true and correct, and hereby incorporates such recitals and their findings into this ordinance.

SECTION 2. Environmental Review

The City Council finds and determines that the adoption of this Urgency Ordinance is exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15060(c)(2), in that the adoption of this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment, and is further and independently exempt from the California Environmental Quality Act under State CEQA Guidelines Section 15061(b)(3), in that it can be seen with certainty there is no possibility the adoption of this Ordinance will have a significant effect on the environment.

SECTION 3. Declaration of Facts Constituting Urgency

The City Council has the power to enact an urgency ordinance, not in conflict with general laws, as necessary to protect public peace, health, and safety, via exercise of the powers provided to cities in Article XI, Section 7, of the California Constitution, and in compliance with Government Code section 36937, subdivision (b) and Section 48 of the Alhambra Charter. The adoption of this Urgency Ordinance is necessary for the immediate preservation of the public peace, health, and safety as those terms are used in Government Code Section 36937, subdivision (b) and Section 48 of the Alhambra Charter in at least the following respects:

- A. Since March of 2020, international, national, state, and local health and governmental authorities have been responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2" and the disease it causes has been named "Coronavirus Disease 2019," abbreviated COVID-19 ("COVID-19"):
 1. On March 4, 2020, the Governor of the State of California declared a State of Emergency in response to COVID-19.
 2. On March 4, 2020, the Health Officer of Los Angeles County determined that the COVID-19 outbreak has created an imminent and proximate threat to the public health of in Los Angeles County and declared a Local Health Emergency, and the Los Angeles County Board of Supervisors concurrently proclaimed the existence of a local emergency for the County of Los Angeles.
 3. On March 11, 2020 the World Health Organization (WHO) publicly characterized COVID-19 as a pandemic.
 4. On March 13, 2020, the President of the United States declared a National Emergency due to the continuing spread and the effects of COVID-19.
 5. On March 16, 2020, the City of Alhambra proclaimed the existence of a local emergency due to the spread and potential further spread of COVID-19, which the City Council for the City of Alhambra ratified at a special meeting.
- B. According to the Center on Budget and Policy Priorities (a nonpartisan research and policy institute) ("CBPP"), the COVID-19 pandemic has resulted in "economic fallout" that "caused significant hardship." (CBPP's COVID Hardship Watch – "Tracking the COVID-19 Economy's Effects on Food, Housing, and Employment Hardships," <https://www.cbpp.org/sites/default/files/8-13-20pov.pdf>.) CBPP reports:

“In the early months of the crisis, tens of millions of people lost their jobs. While employment began to rebound within a few months, unemployment remained high throughout 2020. Improving employment and substantial relief measures helped reduce the very high levels of hardship seen in the summer of 2020. Nonetheless, considerable unmet need remained near the end of 2021, with 20 million households reporting having too little to eat in the past seven days and 10 million households behind on rent. In early 2022, some 3 million fewer people are employed than before the pandemic, though steady progress has been made, including in recent months.”

(Id.)

C. Independent of the COVID-19 crisis, the City of Alhambra is experiencing housing affordability issues, which can drive homelessness and the displacement of residents.

D. When a household spends more than 30 percent of its income on housing costs (i.e., is “rent burdened”), it has less disposable income for other necessities such as health care. In the event of unexpected circumstances, such as loss of income or health problems, households with a burdensome housing cost are more likely to become homeless. In Alhambra, approximately 51.1% of renter-households use more than 30% of their incomes to cover housing costs (2015–2019 ACS 5-Year Estimates). The renter income levels in Alhambra are such that 29% of renter households have less than 30% of the Area Median Income (AMI); 19% of renter households have between 31% and 50% AMI; 20% have between 51% and 80% AMI; and 32% have greater than 81% AMI.

E. As the cost of housing in Southern California continues to rise, homelessness has become more prevalent. In the 2020 Greater Los Angeles Homeless Street Count, 32 unsheltered individuals were counted in Alhambra. That number increased to 46 individuals in 2022.

F. The Greater Los Angeles Homeless Street Counts do not include individuals who live with relatives or friends, in nearby hotels, or in other transitional housing. The Alhambra Unified School District reported that for the 2021-22 school year, 259 children fit into the latter category (although the School District includes some neighborhoods outside Alhambra).

G. One of the most effective ways to address homelessness is to prevent individuals and families from becoming homeless in the first place. To that end, the City has programs to assist families threatened with homelessness. Alhambra’s HOME Team, which is a collaborative of Alhambra Law Enforcement, a Homeless Support Services Provider, and LA County Department Mental Health, has been providing critical street management since 2017 to ensure the local homeless population have access to resources, case management, mental health assessments, and shelter assistance. In addition, the City contracts with the Housing Rights Center to provide landlord/tenant counseling, outreach and education, and discrimination investigation as well as advocacy and litigation assistance and referrals to residents.

H. Starting in March of 2020, Alhambra's residential tenants were generally protected from evictions by a variety of temporary COVID-19-related governmental measures, such as: (1) Alhambra's Urgency Ordinance (adopted March 27, 2020) temporarily prohibiting evictions of residential tenants due to impacts from the Covid-19 Pandemic; (2) the California Judicial Council's temporary emergency measures which effectively provided for a moratorium on all evictions; (3) the State of California's eviction moratorium (ultimately codified through Assembly Bill 3088 (2020), Senate Bill 91 (2021), and Assembly Bill 81 (2021)); and (4) the County of Los Angeles' Tenant Protections Resolution, which took effect March 4, 2020 and provided certain protections to residential tenants affected by the Pandemic within unincorporated Los Angeles County and within LA County cities that had no moratorium in place or to the extent the moratorium did not include the same greater protections as the Resolution; however, those measures expired on March 31, 2023, with very limited exceptions.

I. The City has determined, both through direct residential tenant complaints and through information available on a regional basis, that tenants throughout the Los Angeles County region have reported experiencing a surge of eviction notices and threats of eviction premised on AB 1482's Substantial Remodel Eviction exception. In response to such threats and notices, other Los Angeles County cities, including the County of Los Angeles and the Cities of Los Angeles, Long Beach, South Pasadena, Claremont and Pomona, have adopted urgency ordinances or are actively considering urgency ordinances aimed at protecting tenants from illegitimate Substantial Remodel Evictions and/or increasing the amount of tenant relocation assistance landlords must provide for Substantial Remodel Evictions.

J. The City has also learned some residential tenants in Alhambra are experiencing threats of evictions after the County of Los Angeles's tenant protections expired for the alleged purpose of substantially remodeling their units. Some tenants provided public comment at the City Council's regular meeting on May 8, 2023. However, in some instances, the City has not received applications for permits (e.g., building permits, electrical permits, plumbing permits, and the like) for remodeling work in those units. This raises questions about the legitimacy of the property owners' reliance on the AB 1482's Substantial Remodel Eviction exception.

K. At its regular meeting on May 8, 2023, the City Council expressed a desire to study, develop, and consider adopting "more protective" local standards for Substantial Remodel Evictions to ensure these evictions fully comply with AB 1482. The City Council directed staff to prepare an ordinance that, if adopted, would impose a temporary moratorium on Substantial Remodel Evictions in qualifying residential units in the City of Alhambra while the City Council studies permanent local protections, such as corroboration that the work on the unit meets AB 1482's definition of "substantial remodel" and a requirement provide a higher amount of tenant relocation assistance than what is required by AB 1482.

L. As noted above, the County of Los Angeles's tenant protections expired on March 31, 2023. Adoption of a temporary moratorium through a regular ordinance requires two readings and will not take effect until 30 days after its second reading. As a result, absent a moratorium adopted through a temporary urgency ordinance that may be passed immediately, there could be a window of time when Alhambra's residential tenants do not have heightened protection from illegitimate Substantial Remodel Evictions or an amount

of tenant relocation assistance that is appropriate for Alhambra's housing market. More concerning, this window of time could prompt landlords to proceed with Substantial Remodel Evictions simply to take advantage of a period when Substantial Remodel Evictions do not require corroboration or heightened relocation assistance. In other words, adopting this moratorium through a regular ordinance without an urgency ordinance to fill the potential gap could have the unintended consequence of temporarily prompting more Substantial Remodel Evictions.

The above-identified facts constitute a current and immediate threat to the public peace, health, and safety of the City, within the meaning of Government Code section 36937, subdivision (b) and Section 48 of the Alhambra Charter. In light of these facts, the City Council finds that an urgency ordinance is necessary and essential to prevent the irreparable injury tenants and the community in general would suffer due to Substantial Remodel Evictions, including without limitation, housing insecurity and homelessness for the displaced tenants. The City Council declares that this urgency ordinance is necessary for immediate preservation of the public peace, health, and safety of the community.

SECTION 4. Temporary Moratorium on Certain "No Fault" Evictions

A temporary moratorium on no-fault evictions of certain residential tenants is hereby approved, adopted, and imposed as follows:

- A. Moratorium. During the period this moratorium is in effect, a landlord shall not terminate the tenancy of a residential tenant based on an intent to "substantially remodel" the residential real property, as "substantially remodel" is defined in Section 1946.2(b)(2)(D) of the California Civil Code.

For ease of reference, as of the effective date of this Urgency Ordinance, Section 1946.2(b)(2)(D)(ii) defines "substantially remodel" as follows: "'substantially remodel' means the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency, or the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, state, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the residential real property for at least 30 days. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the residential real property vacated, do not qualify as substantial rehabilitation."

- B. Exceptions.

1. This moratorium shall not apply to the termination of a tenancy if the tenant does not qualify for the protections of Assembly Bill 1482 (2019-2020) ("AB 1482"), as codified in Section 1946.2(a) of the California Civil Code.

For ease of reference, as of the effective date of this Urgency Ordinance, Section 1946.2(a) applies to the following tenants:

a. A tenant who “has continuously and lawfully occupied a residential real property for 12 months”; and

b. If “any additional adult tenants are added to the lease before an existing tenant has continuously and lawfully occupied the residential real property for 24 months,” then this moratorium shall only apply if either of the following are satisfied:

i. “All of the tenants have continuously and lawfully occupied the residential real property for 12 months or more”; or

ii. “One or more tenants have continuously and lawfully occupied the residential real property for 24 months or more.”

2. This moratorium shall not apply to any type of residential real property or residential circumstance that is exempt from AB 1482’s just cause eviction requirements, as codified in Section 1946.2(e) of the California Civil Code.

For ease of reference, as of the effective date of this Urgency Ordinance, these exceptions include, without limitation, any of the types of housing listed below. To the extent this list conflicts with Section 1946.2(e) of the California Civil Code, Section 1946.2(e) shall prevail.

a. Units that were built within the past 15 years (Civ. Code § 1946.2(7));

b. Single family homes and condominiums unless the owner is one of the following:

(i) a real estate investment trust, as defined in Section 856 of the Internal Revenue Code;

(ii) a corporation; or

(iii) a limited liability company in which at least one member is a corporation;

And the tenants have been provided notice that the unit are not subject to AB 1482’s rent limits and just cause eviction requirements. (Civ. Code § 1946.2(8))

c. Affordable housing for persons and families of very low, low, or moderate income, including housing subject to an agreement that provides housing subsidies for affordable housing. (Civ. Code § 1946.2(9))

d. Room rentals where the property owner lives in the unit (Civ. Code § 1946.2(e)(4));

- e. An accessory dwelling unit (ADU) or a junior accessory dwelling unit (JADU) where the property owner lives on site in one of the units Civ. Code § 1946.2(e)(5)(A)); and
 - f. A duplex where the owner lives in one of the units (Civ. Code § 1946.2(e)(6)); and
 - g. Dormitories (Civ. Code § 1946.2(e)(3)).
3. This moratorium shall not apply to terminations of tenancies so the property owner can perform work that meets AB 1482's definition of "substantial remodel" and is necessary to either to bring the property into compliance with applicable codes and laws affecting health and safety of tenants of the building, or under an outstanding notice of code violations affecting the health and safety of tenants of the building. A tenancy shall not be terminated pursuant to this exception unless and until all of the following prerequisites have been met:
- (a) Building permits (and/or any other applicable permits) have been secured from the City of Alhambra;
 - (b) The tenant has been provided with copies of the permit(s); and
 - (c) The tenant has been provided with a written detailed account of the scope of work, why the work cannot be reasonably accomplished in a safe manner with the tenant in place, and why the work cannot be completed within 30 days.

C. Affirmative Defense. If a landlord initiates an unlawful detainer (eviction) action against a residential tenant in the City of Alhambra who is protected by this Urgency Ordinance, the tenant may assert this Urgency Ordinance as an affirmative defense in that action.

SECTION 5. Relationship to AB 1482

The City Council of the City of Alhambra finds and declares that this Urgency Ordinance is more protective than Section 1946.2 of the Civil Code. Consistent with AB 1482 and, as authorized by subsection (g) of Section 1946.2, this Urgency Ordinance will temporarily prohibit certain no-fault evictions to allow the City time to study, develop, and consider adoption of permanent requirements, such as higher relocation assistance amounts and additional tenant protections for "no-fault just cause" evictions based on a property owner's intent to "substantially remodel" or demolish the residential real property.

It is the City's intent that its residential tenants be afforded the strongest protections available under the law. If any other governmental entity (including without limitation, the United States Government, the State of California, and the County of Los Angeles) adopts stronger tenant protections that apply to residential tenants in the City of Alhambra, then the stronger tenant protections shall prevail, and the City shall not enforce conflicting tenant protections in this Urgency Ordinance.

SECTION 6. Effective Date.

This Ordinance is declared to be an Urgency Ordinance by authority conferred on the City Council of the City of Alhambra by Government Code Sections 36934 and 36937, and Alhambra Charter Section 48 and shall be in full force and effect immediately upon its adoption by a four-fifths vote of the City Council. The provisions of this Urgency Ordinance shall apply to all residential rental units not specified in Section 4 to be exempt, including where a notice to vacate or to quit any such rental unit has been served prior to, as of, or after the effective date of this Urgency Ordinance, but where an unlawful detainer judgment has not been issued as of the effective date of this Urgency Ordinance.

SECTION 7. Term of Urgency Ordinance.

This Urgency Ordinance shall be in effect until the earlier of: (1) the date an ordinance addressing "just cause" evictions adopted by the City Council of the City of Alhambra goes into effect; (2) the date this Urgency Ordinance is rescinded or terminated by the City Council of the City of Alhambra; or (3) December 31, 2023.

SECTION 8. Expiration or Termination

If the term of the Urgency Ordinance is not extended, then it shall automatically expire at 11:59 p.m. on its last day without further action of the City Council.

SECTION 9. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase, or portion of this Urgency Ordinance is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Urgency Ordinance or any part thereof. The City Council hereby declares that it would have adopted this Urgency Ordinance and each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Urgency Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. To this end, the provisions of this Urgency Ordinance are declared to be severable.

SECTION 10. Posting of Ordinance.

The Mayor shall sign this Urgency Ordinance and the City Clerk shall attest and certify to its passage and adoption. The City Clerk shall cause a summary of this Urgency Ordinance to be published or posted as required by law.

PASSED, APPROVED AND ADOPTED this 22nd day of May, 2023.

Adele Andrade-Stadler, Mayor

Ordinance No. O2M23-4811

ATTEST:

Lauren Myles, City Clerk

APPROVED AS TO FORM:

Joseph M. Montes, City Attorney

I HEREBY CERTIFY that the above and foregoing urgency ordinance was duly passed and adopted by the Alhambra City Council at its regular meeting held on the 22nd day of May, 2023 by the following vote, to wit:

AYES:
NOES:
ABSENT:

Lauren Myles, City Clerk